IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FARAD CONTINUATION SHEET
CIVIL APPLICATION NO.646 OF 2006
IN
FIRST APPEAL NO.245 OF 2006

Office Notes,Office memorandum of Coram, appearances,Court's orders or directions & Registrar's orders.	Court's or Judge's orders

Mr.S.P.Kadam for the Applicant
Ms A.R.S.Baxi for the Respondent

CORAM: A.S.OKA, J.
DATED: MAY 2, 2006.

P.C.:

1. Rule. Respondent waives service. Taken up for hearing forthwith.

2. The learned Advocate for the Applicant has invited my attention to the findings recorded by the Trial Court in the impugned Judgment. He pointed out that the vital documents on which the reliance is placed are not proved. He submitted that there is no question of enticing the Respondent's daughter as she had attained majority. He stated that considering the present status of the Appellant, it is impossible for him to deposit the decretal amount. He submitted that a departure should be made from the general rule which is followed in case of a money decree. The learned Advocate for the respondent

opposed the said prayer.

3. The learned Trial Judge has recorded a clear finding that the Appellant has defamed the Respondent. The claim of the Respondent was of the damages to the tune of Rs.5,00,000/-. The Trial Court has granted compensation of Rs.2,00,000/-. In my view, considering the findings recorded by the Trial Court, no case is made out for making a departure from the settled position of law that a money decree cannot be stayed unless the Appellant deposits the decretal amount. When a query was made to the Advocate for the Appellant as to whether the Appellant is in a position to deposit the decretal amount within a reasonable time which may be granted by this Court, the learned Advocate for the Appellant stated that the the Appellant has instructed him to make a statement that he is not in a position to deposit any amount.

4. In view of this position, no case is made out for grant of stay. Application is rejected.

Judge.